

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RAFAEL A. JONES, SR.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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Case No. 4:12CV-94 HEA

ORDER

This matter is before the Court on plaintiff's motion for leave to proceed in forma pauperis [Doc. #1, pages 1-2].

Plaintiff brings this action for monetary relief pursuant to 42 U.S.C. § 1983.¹ Plaintiff has filed at least three previous cases that were dismissed as frivolous, malicious, or for failure to state a claim.² Under 28 U.S.C. § 1915(g), therefore, the Court may not grant the motion unless plaintiff "is under imminent danger of serious physical injury."

After reviewing the complaint, the Court finds no allegations that would show that plaintiff is in imminent danger of serious physical injury. As a result, the Court will deny the motion and will dismiss this action without prejudice to refile as a fully paid complaint.

Accordingly,

¹It is unclear to the Court whether plaintiff is also seeking release from the custody of the Missouri Department of Corrections. The Court will not liberally construe the instant complaint as requesting this relief, because such a claim would be cognizable exclusively under 28 U.S.C. § 2254, not 42 U.S.C. § 1983. *See Preiser v. Rodriguez*, 411 U.S. 475, 490 (1973)(habeas corpus is the appropriate remedy for prisoners attacking the validity of the fact or length of their confinement).

²*See Jones v. Brayer*, Case No. 4:07-CV-1704 RWS (E.D. Mo.); *Jones v. Brayer*, Case No. 4:07-CV-1723 ERW (E.D. Mo.); *Jones v. Isom*, Case No. 4:08-CV-1584 TIA (E.D. Mo.).

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #1, pages 1-2] is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's motion for injunctive relief regarding his outgoing legal mail [Doc. #3] is **DENIED** as moot.

IT IS FURTHER ORDERED that this action is **DISMISSED**, without prejudice, pursuant to 28 U.S.C. § 1915(g).

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 3rd day of February, 2012.

A handwritten signature in black ink, appearing to read "Henry Edward Autrey", is written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE